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NO. 634

In the Supreme Court of the United States

October Term, 1959

GEORGE H. BRASIER, *Petitioner,*

vs.

CITY OF TULSA, OKLAHOMA, *Respondent.*

REPLY BRIEF OF PETITIONER.

GEORGE H. BRASIER, *pro se.*

February, 1960.

Wright Building GUYETTE—ATKINS Tulsa, Oklahoma

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Supreme Court of The United States

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REPLY BRIEF.

Respondent's objection to petitioner's petition for a writ of certiorari presents complexities as to material and genuine issues of fact and law, not advocated by petitioner, to the extent that a reply is most imperative and important in the interest of equitable and lawful justice.

ARGUMENT.

Respondent has such faith in the ancient medieval maxim "the king can do no wrong" that by mesmeric effect, is attempting to lull this Court into ignoring the fundamentals of American Jurisprudence.

Respondent has attempted to inject, under Proposition I of its objection to the instant petition for a writ of certiorari, that it was acting in a governmental capacity, citing seven (7) cases in support of said proposition. Petitioner submits that the question under said proposition is not a question of law until such time as the question of, or issue of fact has been determined by trial. There is nothing in the record that establishes whether defendant City was functioning in a governmental capacity. The record does show issues of, or questions of fact that are not material until such time as they are determined by trial.

In *Ex parte Duncan*, 179 Okl. 353, 65 P. 2d 1015, the Supreme Court of Oklahoma simply held that 47 Okla. Ann., Section 12, implies the power to exact a fee of sufficient amount to cover expenses of the proper exercise of that power; and Oklahoma City parking meter ordinance held valid, where they appear to be bona fide police regulations on their face, and there is no showing that the city is making unjust profits and is resorting to their use for the purpose of raising revenue and not regulation. The balance of respondent's citations also deal in issue of law and are not material at this stage.

Under the City's Proposition 2 petitioner admits that he did not raise the validity and constitutionality of the ordinance, however, petitioner does urge that he did challenge the policy and the act of the seizure and conversion of his property as being violative of the double jeopardy, due process, equal protection and compensation clauses of the Fourteenth Amendment to the Federal Constitution.

What petitioner has actually asked this Court to do is to grant the petition for the purpose of determining whether the record shows issues of or questions of fact to be tried, forming a basis for federal jurisdiction of the instant controversy, pursuant to the Civil Rights Acts and or Seizure Act.

As a basis for further clarification, petition argues, that the record shows triable issues of or question of fact, and should petitioner prove his pleading allegations, the record would then show that the City, its officers and tow-in agent were functioning in a proprietary capacity under pretense of law and/or office pursuant to an established policy of requiring three or more traffic violations rather than under Ordinance 7110, Section (B), which only requires two (2) or more.

Conclusion.

Petitioner verily believes that he has controverted the objections of respondent and that the question concerning the instant controversy should be resolved by granting the petition for a writ of certiorari.

Respectfully submitted,

GEORGE H. BRASIER, *pro se.*

CERTIFICATE OF SERVICE

I, George H. Brasier, *pro se*, do hereby certify that four (4) copies of the foregoing Reply have been served pursuant to Rule 33 of the Revised Rules of this Court.

GEORGE H. BRASIER, *pro se.*

February, 1960.